Our ref: R01/0208 Out-24008

25 September 2015

Elspeth Dyer
The Committee Manager
Select Committee on the Regulation of Brothels
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Elspeth

Inquiry into the Regulation of Brothels

I write in response to the questions that you have sought further information from me on.

The information is set out below.

Question 1: Home based (Sex Premises)

Chair: That is my understanding. I think we are in agreement that is common ground. Would it be fair to say that your members would not be encouraging any particular change to the law in respect of that particular issue from the current position, because it seems to be operating in a manner where people are not complaining one way or the other?

Mr Baum: I should take that on notice, but it is probably a fair observation. I am happy to come back if we have any evidence on the books. I did not actually cover that in our submission.

Response:
Having consulted our records and talked to colleagues I can advise that LGNSW does not have any further evidence to provide to the Inquiry on ‘home occupation (sex premises)’.

Question 2: Regulating sex premises similar to that of registering boarding houses

Chair: Then you said boarding houses. In respect of liquor licensing I think I am reasonably familiar that: There is an interplay between the licensing authority, local government and the police and there is a coordination of different agencies in terms of the licensing function and the enforcement function. You also mentioned the licensing of boarding houses. Could you just explain to me how that operates, because I am less familiar with that, and what you intended to mean by some of your members advocating a similar system there?
Mr Baum: I would have to take that on notice, but that is something we noticed in our review of the submissions to you.

Response:
In 2012, the Parliament of New South Wales (NSW) passed the *Boarding Houses Act 2012* (NSW) (the Act), as a central part of its bid to strengthen and comprehensively regulate boarding houses in NSW. This Act requires boarding houses to be licensed by the State Government.

A boarding house register was established by way of the Act that is administered by the State Government.

The register contains the name of the owner of the boarding house, the address of the boarding house and it is publicly available.

The Act also contains a definition of a registrable boarding house.

Councils were given powers under the Act to issue fines for premises used as boarding houses that were not registered plus powers of inspection to ascertain building and safety standards.

Although some members have expressed a view as to the merits of this system for the registration of sex premises, LGNSW has taken no position on the issue.

Question 3:

Ms Jo Haylen: Going to the difference between the unapproved and approved premises and the levels of complaints between them, how do you think we can get to a scenario where we have more approved rather than unapproved activities? We have heard over the past couple of days of evidence that it ranges from potentially approved premises complaining about unapproved premises and therefore they may be operation in zones that are in areas where they cannot get approval to operate. How do we fix that scenario? Because it seems to me that there are actually a lot of people who would seek to get approval, but have had difficulty getting approval – maybe the zonings are restrictive and/or people have had to go to the Land and Environment Court to get approval. I know it is a very complex issue, but I was wondering whether Local Government NSW has a broader view about how we reduce the number of unapproved premises operating, and therefore the level of complaint and therefore the imposition on local government to regulate or to enforce those issues.

Mr Baum: I know we have certainly not discussed that in that way. That is something we really would have to be taken on notice and just try out with a number of councils to see if people can see a clear way through that, because my suspicion is it will be council by council in that there will be unique things involved. But we are happy to have a look at it.

Response:
The question of how to manage unauthorized activities needs to be placed in a wider context. It cannot be assumed that unauthorized sex premises will be approved if a DA was lodged. The difficulty is that some sex premises are located in areas where these activities are not permissible under the zone or are proposed to be located next to activities where a sex premises is not considered an appropriate use, such as a school. This is no simple way of resolving the issue apart from encouraging the proprietors of sex premises to seek advice from council staff on
planning controls on sex premises in their Local Government Area prior to the lodgement of a DA. All council's provide pre DA advice on proposal applications that enable applicants to address the planning controls in the DA.

Yours sincerely

Noel Baum
Director – Policy